



January 15, 1997

Hon. Dianne Feinstein  
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Via Fax and Mail

Dear Senator Feinstein:

I write to express appreciation for the urgency with which you are approaching the near overwhelming problems that have been created by the devastating 1997 New Year's floods in California. I especially appreciate your invitation to be a part of the historic meeting you called yesterday to begin the jobs of reconstruction and assessment that lie before all of us concerned with water management in our great state.

You properly divided these tasks into three categories: (1) emergency aid, to help those currently in dire need; (2) short-term preparations, to minimize the further risk of catastrophe in the remainder of this flood season; and (3) longer-term planning and action, to assure that as many of the problems that have become apparent in the last three weeks do not repeat themselves in the flooding events that inevitably will occur in California's future.

On behalf of the Environmental Defense Fund, I presented you yesterday with five recommendations that I thought it worthwhile to reiterate today in writing. For the most part, these recommendations deal with the longer-term problems of flood management uncovered by this year's floods, not with the immediate crises we still must overcome.

Briefly summarized, these recommendations are, as follows:

- (1) Cast the net broadly in looking to assign responsibility for the devastation caused by this year's floods (viz., don't scapegoat environmental regulations, as some have suggested be done);
- (2) Examine not only the immediate causes of particular levee breaks (e.g., insufficient maintenance, improper design, unfortunate location, environmental constraints, etc.), but the broader causes of downstream levee failures, including reservoir operations and reservoir management planning, as well as the land use decisions which have unnecessarily increased the personal and property losses caused by this year's floods;
- (3) In particular, look closely at the operations of New Don Pedro Dam on the Tuolumne River and Friant Dam on the San Joaquin River, as well as the channel capacities of those rivers downstream of these dams, to see how the devastation these rivers caused this year could be avoided in future floods;

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- (4) In the future, wherever it is possible from both an environmental and an economic point of view, consider levee setbacks that would increase the flood capacity of our rivers as well as providing additional habitat for our beleaguered natural biological resources (i.e., let's not just build up all the levees where they are now, but let's consider whether we can move some of them in the public interest); and
- (5) Call for the formation of a blue-ribbon commission that in the near future would provide an assessment of flood problems in California, independent of all the bureaucracies, federal, state and local, who currently have roles in providing flood protection in this state.

The most extraordinary statement I heard yesterday was made by Mr. Paul Pugner of the Sacramento District of the U.S. Army Corps of Engineers, at the legislative briefing called by State Senator Costa and Assemblyman Machado. Mr. Pugner made a statement to the effect that New Don Pedro Dam had been operated as intended in the 1997 flood. Sadly and perversely he probably was right in this astonishing admission. Unbeknownst to most of the public, including the unsuspecting homeowners who bought houses almost immediately adjacent to the Tuolumne River in Modesto and elsewhere downstream of New Don Pedro, the reservoir operations manual for New Don Pedro and the constrained downstream channel capacity on the Tuolumne had almost certainly doomed these people to be inundated, even in a flood event considerably more modest than the great 1997 downpour. As Mr. Pugner testified, Modesto, despite its location immediately downstream of one of California's largest reservoirs, was being provided with only 50 year flood protection.

I am sure you will agree that this situation is unacceptable and that something must be done, hopefully a program along the lines EDF has recommended, to prevent a reoccurrence of the tragedies which evolved over the last two weeks. This situation suggests not only that such a program be undertaken, but that the disclosure of associated flood risks should be a required and routine part of all real estate transactions. It also suggests that active consideration in appropriate circumstances should be given to moving both people and structures out of harm's way, when public relief funds are made available to those devastated by the floods, as was done following the great Missouri and Mississippi River floods of 1993.

I personally look forward to working with you and others to make California a more secure, as well as a more beautiful, place to live. Please let us at EDF know how you believe we can be most helpful in the days and months to come.

Sincerely,



Thomas J. Graff  
Senior Attorney

TJG:vp

cc: Hon. Jim Costa, State Senate  
Hon. Michael Machado, State Assembly  
Barbara Boyle, Sierra Club  
Mike Eaton, The Nature Conservancy  
Ron Stork, Friends of the River  
Dan Taylor, National Audubon Society